



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB0254

Introduced 1/14/2005, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

20 ILCS 505/9.1 rep.	
20 ILCS 505/9.2 rep.	
20 ILCS 505/9.3 rep.	
20 ILCS 505/9.4 rep.	
20 ILCS 505/9.5 rep.	
20 ILCS 505/9.6 rep.	
20 ILCS 505/9.7 rep.	
20 ILCS 505/9.8 rep.	
705 ILCS 405/1-3	from Ch. 37, par. 801-3
705 ILCS 405/2-23	from Ch. 37, par. 802-23
730 ILCS 5/3-7-6 rep.	
735 ILCS 5/4-101	from Ch. 110, par. 4-101

Amends the Children and Family Services Act. Repeals Sections concerning charges to a parent or guardian resulting from the care and training of a child by the Department of Children and Family Services. Amends the Juvenile Court Act. Deletes language concerning a parent's or guardian's liability to pay for the support of a child who has been removed from that parent's or guardian's care. Amends the Unified Code of Corrections. Repeals a Section concerning reimbursement for the expenses of committed persons. Amends the Code of Civil Procedure to make corresponding changes.

LRB094 04965 BDD 34995 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 (20 ILCS 505/9.1 rep.)

5 (20 ILCS 505/9.2 rep.)

6 (20 ILCS 505/9.3 rep.)

7 (20 ILCS 505/9.4 rep.)

8 (20 ILCS 505/9.5 rep.)

9 (20 ILCS 505/9.6 rep.)

10 (20 ILCS 505/9.7 rep.)

11 (20 ILCS 505/9.8 rep.)

12 Section 5. The Children and Family Services Act is amended  
13 by repealing Sections 9.1, 9.2, 9.3, 9.4, 9.5, 9.6, 9.7, and  
14 9.8.

15 Section 10. The Juvenile Court Act of 1987 is amended by  
16 changing Sections 1-3 and 2-23 as follows:

17 (705 ILCS 405/1-3) (from Ch. 37, par. 801-3)

18 Sec. 1-3. Definitions. Terms used in this Act, unless the  
19 context otherwise requires, have the following meanings  
20 ascribed to them:

21 (1) "Adjudicatory hearing" means a hearing to determine  
22 whether the allegations of a petition under Section 2-13, 3-15  
23 or 4-12 that a minor under 18 years of age is abused, neglected  
24 or dependent, or requires authoritative intervention, or  
25 addicted, respectively, are supported by a preponderance of the  
26 evidence or whether the allegations of a petition under Section  
27 5-520 that a minor is delinquent are proved beyond a reasonable  
28 doubt.

29 (2) "Adult" means a person 21 years of age or older.

30 (3) "Agency" means a public or private child care facility  
31 legally authorized or licensed by this State for placement or

1 institutional care or for both placement and institutional  
2 care.

3 (4) "Association" means any organization, public or  
4 private, engaged in welfare functions which include services to  
5 or on behalf of children but does not include "agency" as  
6 herein defined.

7 (4.05) Whenever a "best interest" determination is  
8 required, the following factors shall be considered in the  
9 context of the child's age and developmental needs:

10 (a) the physical safety and welfare of the child, including  
11 food, shelter, health, and clothing;

12 (b) the development of the child's identity;

13 (c) the child's background and ties, including familial,  
14 cultural, and religious;

15 (d) the child's sense of attachments, including:

16 (i) where the child actually feels love, attachment,  
17 and a sense of being valued (as opposed to where adults  
18 believe the child should feel such love, attachment, and a  
19 sense of being valued);

20 (ii) the child's sense of security;

21 (iii) the child's sense of familiarity;

22 (iv) continuity of affection for the child;

23 (v) the least disruptive placement alternative for the  
24 child;

25 (e) the child's wishes and long-term goals;

26 (f) the child's community ties, including church, school,  
27 and friends;

28 (g) the child's need for permanence which includes the  
29 child's need for stability and continuity of relationships with  
30 parent figures and with siblings and other relatives;

31 (h) the uniqueness of every family and child;

32 (i) the risks attendant to entering and being in substitute  
33 care; and

34 (j) the preferences of the persons available to care for  
35 the child.

36 (4.1) "Chronic truant" shall have the definition ascribed

1 to it in Section 26-2a of the School Code.

2 (5) "Court" means the circuit court in a session or  
3 division assigned to hear proceedings under this Act.

4 (6) "Dispositional hearing" means a hearing to determine  
5 whether a minor should be adjudged to be a ward of the court,  
6 and to determine what order of disposition should be made in  
7 respect to a minor adjudged to be a ward of the court.

8 (7) "Emancipated minor" means any minor 16 years of age or  
9 over who has been completely or partially emancipated under the  
10 ~~"Emancipation of Mature Minors Act", enacted by the~~  
11 ~~Eighty-First General Assembly,~~ or under this Act.

12 (8) "Guardianship of the person" of a minor means the duty  
13 and authority to act in the best interests of the minor,  
14 subject to residual parental rights ~~and responsibilities,~~ to  
15 make important decisions in matters having a permanent effect  
16 on the life and development of the minor and to be concerned  
17 with his or her general welfare. It includes but is not  
18 necessarily limited to:

19 (a) the authority to consent to marriage, to enlistment  
20 in the armed forces of the United States, or to a major  
21 medical, psychiatric, and surgical treatment; to represent  
22 the minor in legal actions; and to make other decisions of  
23 substantial legal significance concerning the minor;

24 (b) the authority and duty of reasonable visitation,  
25 except to the extent that these have been limited in the  
26 best interests of the minor by court order;

27 (c) the rights and responsibilities of legal custody  
28 except where legal custody has been vested in another  
29 person or agency; and

30 (d) the power to consent to the adoption of the minor,  
31 but only if expressly conferred on the guardian in  
32 accordance with Section 2-29, 3-30, or 4-27.

33 (9) "Legal custody" means the relationship created by an  
34 order of court in the best interests of the minor which imposes  
35 on the custodian the responsibility of physical possession of a  
36 minor and the duty to protect, train and discipline him and to

1 provide him with food, shelter, education and ordinary medical  
2 care, except as these are limited by residual parental rights  
3 ~~and responsibilities~~ and the rights and responsibilities of the  
4 guardian of the person, if any.

5 (10) "Minor" means a person under the age of 21 years  
6 subject to this Act.

7 (11) "Parent" means the father or mother of a child and  
8 includes any adoptive parent. It also includes a man (i) whose  
9 paternity is presumed or has been established under the law of  
10 this or another jurisdiction or (ii) who has registered with  
11 the Putative Father Registry in accordance with Section 12.1 of  
12 the Adoption Act and whose paternity has not been ruled out  
13 under the law of this or another jurisdiction. It does not  
14 include a parent whose rights in respect to the minor have been  
15 terminated in any manner provided by law.

16 (11.1) "Permanency goal" means a goal set by the court as  
17 defined in subdivision (2) of Section 2-28.

18 (11.2) "Permanency hearing" means a hearing to set the  
19 permanency goal and to review and determine (i) the  
20 appropriateness of the services contained in the plan and  
21 whether those services have been provided, (ii) whether  
22 reasonable efforts have been made by all the parties to the  
23 service plan to achieve the goal, and (iii) whether the plan  
24 and goal have been achieved.

25 (12) "Petition" means the petition provided for in Section  
26 2-13, 3-15, 4-12 or 5-520, including any supplemental petitions  
27 thereunder in Section 3-15, 4-12 or 5-520.

28 (13) "Residual parental rights ~~and responsibilities~~" means  
29 those rights ~~and responsibilities~~ remaining with the parent  
30 after the transfer of legal custody or guardianship of the  
31 person, including, but not necessarily limited to, the right to  
32 reasonable visitation (which may be limited by the court in the  
33 best interests of the minor as provided in subsection (8) (b) of  
34 this Section), the right to consent to adoption, and the right  
35 to determine the minor's religious affiliation, ~~and the~~  
36 ~~responsibility for his support.~~

1           (14) "Shelter" means the temporary care of a minor in  
2 physically unrestricting facilities pending court disposition  
3 or execution of court order for placement.

4           (15) "Station adjustment" means the informal handling of an  
5 alleged offender by a juvenile police officer.

6           (16) "Ward of the court" means a minor who is so adjudged  
7 under Section 2-22, 3-23, 4-20 or 5-705, after a finding of the  
8 requisite jurisdictional facts, and thus is subject to the  
9 dispositional powers of the court under this Act.

10           (17) "Juvenile police officer" means a sworn police officer  
11 who has completed a Basic Recruit Training Course, has been  
12 assigned to the position of juvenile police officer by his or  
13 her chief law enforcement officer and has completed the  
14 necessary juvenile officers training as prescribed by the  
15 Illinois Law Enforcement Training Standards Board, or in the  
16 case of a State police officer, juvenile officer training  
17 approved by the Director of the Department of State Police.

18           (18) "Secure child care facility" means any child care  
19 facility licensed by the Department of Children and Family  
20 Services to provide secure living arrangements for children  
21 under 18 years of age who are subject to placement in  
22 facilities under the Children and Family Services Act and who  
23 are not subject to placement in facilities for whom standards  
24 are established by the Department of Corrections under Section  
25 3-15-2 of the Unified Code of Corrections. "Secure child care  
26 facility" also means a facility that is designed and operated  
27 to ensure that all entrances and exits from the facility, a  
28 building, or a distinct part of the building are under the  
29 exclusive control of the staff of the facility, whether or not  
30 the child has the freedom of movement within the perimeter of  
31 the facility, building, or distinct part of the building.

32           (Source: P.A. 90-28, eff. 1-1-98; 90-87, eff. 9-1-97; 90-590,  
33 eff. 1-1-99; 90-608, eff. 6-30-98; 90-655, eff. 7-30-98;  
34 91-357, eff. 7-29-99; revised 10-9-03.)

1           Sec. 2-23. Kinds of dispositional orders.

2           (1) The following kinds of orders of disposition may be  
3 made in respect of wards of the court:

4           (a) A minor under 18 years of age found to be neglected  
5 or abused under Section 2-3 or dependent under Section 2-4  
6 may be (1) continued in the custody of his or her parents,  
7 guardian or legal custodian; (2) placed in accordance with  
8 Section 2-27; (3) restored to the custody of the parent,  
9 parents, guardian, or legal custodian, provided the court  
10 shall order the parent, parents, guardian, or legal  
11 custodian to cooperate with the Department of Children and  
12 Family Services and comply with the terms of an after-care  
13 plan or risk the loss of custody of the child and the  
14 possible termination of their parental rights; or (4)  
15 ordered partially or completely emancipated in accordance  
16 with the provisions of the Emancipation of ~~Mature~~ Minors  
17 Act.

18           However, in any case in which a minor is found by the  
19 court to be neglected or abused under Section 2-3 of this  
20 Act, custody of the minor shall not be restored to any  
21 parent, guardian or legal custodian whose acts or omissions  
22 or both have been identified, pursuant to subsection (1) of  
23 Section 2-21, as forming the basis for the court's finding  
24 of abuse or neglect, until such time as a hearing is held  
25 on the issue of the best interests of the minor and the  
26 fitness of such parent, guardian or legal custodian to care  
27 for the minor without endangering the minor's health or  
28 safety, and the court enters an order that such parent,  
29 guardian or legal custodian is fit to care for the minor.

30           (b) A minor under 18 years of age found to be dependent  
31 under Section 2-4 may be (1) placed in accordance with  
32 Section 2-27 or (2) ordered partially or completely  
33 emancipated in accordance with the provisions of the  
34 Emancipation of ~~Mature~~ Minors Act.

35           However, in any case in which a minor is found by the  
36 court to be dependent under Section 2-4 of this Act,

1 custody of the minor shall not be restored to any parent,  
2 guardian or legal custodian whose acts or omissions or both  
3 have been identified, pursuant to subsection (1) of Section  
4 2-21, as forming the basis for the court's finding of  
5 dependency, until such time as a hearing is held on the  
6 issue of the fitness of such parent, guardian or legal  
7 custodian to care for the minor without endangering the  
8 minor's health or safety, and the court enters an order  
9 that such parent, guardian or legal custodian is fit to  
10 care for the minor.

11 (c) When the court awards guardianship to the  
12 Department of Children and Family Services, the court shall  
13 order the parents to cooperate with the Department of  
14 Children and Family Services, comply with the terms of the  
15 service plans, and correct the conditions that require the  
16 child to be in care, or risk termination of their parental  
17 rights.

18 (2) Any order of disposition may provide for protective  
19 supervision under Section 2-24 and may include an order of  
20 protection under Section 2-25.

21 Unless the order of disposition expressly so provides, it  
22 does not operate to close proceedings on the pending petition,  
23 but is subject to modification, not inconsistent with Section  
24 2-28, until final closing and discharge of the proceedings  
25 under Section 2-31.

26 (3) The court also shall enter any other orders necessary  
27 to fulfill the service plan, including, but not limited to, (i)  
28 orders requiring parties to cooperate with services, (ii)  
29 restraining orders controlling the conduct of any party likely  
30 to frustrate the achievement of the goal, and (iii) visiting  
31 orders. Unless otherwise specifically authorized by law, the  
32 court is not empowered under this subsection (3) to order  
33 specific placements, specific services, or specific service  
34 providers to be included in the plan. If the court concludes  
35 that the Department of Children and Family Services has abused  
36 its discretion in setting the current service plan or

1 permanency goal for the minor, the court shall enter specific  
2 findings in writing based on the evidence and shall enter an  
3 order for the Department to develop and implement a new  
4 permanency goal and service plan consistent with the court's  
5 findings. The new service plan shall be filed with the court  
6 and served on all parties. The court shall continue the matter  
7 until the new service plan is filed.

8 (4) In addition to any other order of disposition, the  
9 court may order any minor adjudicated neglected with respect to  
10 his or her own injurious behavior to make restitution, in  
11 monetary or non-monetary form, under the terms and conditions  
12 of Section 5-5-6 of the Unified Code of Corrections, except  
13 that the "presentence hearing" referred to therein shall be the  
14 dispositional hearing for purposes of this Section. The parent,  
15 guardian or legal custodian of the minor may pay some or all of  
16 such restitution on the minor's behalf.

17 (5) (Blank) ~~Any order for disposition where the minor is~~  
18 ~~committed or placed in accordance with Section 2-27 shall~~  
19 ~~provide for the parents or guardian of the estate of such minor~~  
20 ~~to pay to the legal custodian or guardian of the person of the~~  
21 ~~minor such sums as are determined by the custodian or guardian~~  
22 ~~of the person of the minor as necessary for the minor's needs.~~  
23 ~~Such payments may not exceed the maximum amounts provided for~~  
24 ~~by Section 9.1 of the Children and Family Services Act.~~

25 (6) Whenever the order of disposition requires the minor to  
26 attend school or participate in a program of training, the  
27 truant officer or designated school official shall regularly  
28 report to the court if the minor is a chronic or habitual  
29 truant under Section 26-2a of the School Code.

30 (7) The court may terminate the parental rights of a parent  
31 at the initial dispositional hearing if all of the conditions  
32 in subsection (5) of Section 2-21 are met.

33 (Source: P.A. 89-17, eff. 5-31-95; 89-235, eff. 8-4-95; 90-27,  
34 eff. 1-1-98; 90-28, eff. 1-1-98; 90-608, eff. 6-30-98; 90-655,  
35 eff. 7-30-98; revised 10-9-03.)

1 (730 ILCS 5/3-7-6 rep.)

2 Section 15. The Unified Code of Corrections is amended by  
3 repealing Section 3-7-6.

4 Section 20. The Code of Civil Procedure is amended by  
5 changing Section 4-101 as follows:

6 (735 ILCS 5/4-101) (from Ch. 110, par. 4-101)

7 Sec. 4-101. Cause. In any court having competent  
8 jurisdiction, a creditor having a money claim, whether  
9 liquidated or unliquidated, and whether sounding in contract or  
10 tort, or based upon a statutory cause of action created by law  
11 in favor of the People of the State of Illinois, or any agency  
12 of the State, may have an attachment against the property of  
13 his or her debtor, or that of any one or more of several  
14 debtors, either at the time of commencement of the action or  
15 thereafter, when the claim exceeds \$20, in any one of the  
16 following cases:

17 1. Where the debtor is not a resident of this State.

18 2. When the debtor conceals himself or herself or  
19 stands in defiance of an officer, so that process cannot be  
20 served upon him or her.

21 3. Where the debtor has departed from this State with  
22 the intention of having his or her effects removed from  
23 this State.

24 4. Where the debtor is about to depart from this State  
25 with the intention of having his or her effects removed  
26 from this State.

27 5. Where the debtor is about to remove his or her  
28 property from this State to the injury of such creditor.

29 6. Where the debtor has within 2 years preceding the  
30 filing of the affidavit required, fraudulently conveyed or  
31 assigned his or her effects, or a part thereof, so as to  
32 hinder or delay his or her creditors.

33 7. Where the debtor has, within 2 years prior to the  
34 filing of such affidavit, fraudulently concealed or

1 disposed of his or her property so as to hinder or delay  
2 his or her creditors.

3 8. Where the debtor is about fraudulently to conceal,  
4 assign, or otherwise dispose of his or her property or  
5 effects, so as to hinder or delay his or her creditors.

6 9. Where the debt sued for was fraudulently contracted  
7 on the part of the debtor. The statements of the debtor,  
8 his or her agent or attorney, which constitute the fraud,  
9 shall have been reduced to writing, and his or her  
10 signature attached thereto, by himself or herself, agent or  
11 attorney.

12 10. When the debtor is a person convicted of first  
13 degree murder, a Class X felony, or aggravated kidnapping,  
14 or found not guilty by reason of insanity or guilty but  
15 mentally ill of first degree murder, a Class X felony, or  
16 aggravated kidnapping, against the creditor and that crime  
17 makes the creditor a "victim" under the Criminal Victims'  
18 Asset Discovery Act.

19 11. (Blank) ~~When the debtor is referred by the~~  
20 ~~Department of Corrections to the Attorney General under~~  
21 ~~Section 3-7-6 of the Unified Code of Corrections to recover~~  
22 ~~the expenses incurred as a result of that debtor's cost of~~  
23 ~~incarceration.~~

24 (Source: P.A. 93-508, eff. 1-1-04.)